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2007

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## Recommended Citation

Okafor, Obiora Chinedu. "The Precarious Place of Labour Rights and Movements in Nigeria's Dual Economic and Political Transition, 1999-2005." *Journal of African Law* 51.1 (2007): 68-94.

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# The Precarious Place of Labour Rights and Movements in Nigeria's Dual Economic and Political Transition, 1999–2005

Obiora Chinedu Okafor\*

## Abstract

Caught between pressure from dominant global economic actors (such as the International Monetary Fund (IMF), the World Bank (WB), and certain states) to implement painful socio-economic reform measures, and pressure from significant numbers of their own peoples to reject these IMF/WB-style prescriptions, formally democratic “third world” governments often yield to the demands of the former to push through such reforms, sometimes at great social cost. This article utilizes a contemporary Nigerian case study to illustrate this point and to show how the curtailment of labour rights and the weakening of labour movements have formed an important part of the economic strategy of many such governments. This anti-labour rights/movements strategy is an attempt by governments to deal with the human rights contradictions that are often generated when third world countries attempt dual political and economic transitions. The article argues that the deployment of an anti-labour strategy is grounded in a new kind of “full belly thesis” that prioritizes a particular IMF/WB-friendly vision of economic development over certain kinds of political (especially labour) rights. The powerful global economic actors, who would otherwise advocate the observance of all human rights, have nevertheless found this thesis more acceptable than its earlier iteration, which was grounded in a far less IMF/WB-friendly economic vision.

## INTRODUCTION

This paper examines the question of the precarious place of labour rights and movements in Nigeria's dual economic and political transition in the context of global currents around the same issue. This issue remains central today given the democratic inertia in many previously well-regarded third

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world countries and the economic troubles that continue to afflict even many of the states that had earlier been touted as successes. The paper begins with an overview of the human rights tensions that have often accompanied attempts by third world countries to undertake dual political and economic transitions, that is, the attempt to institute certain painful International Monetary Fund/World Bank-style market liberalization and other reforms while simultaneously attempting to transform relatively authoritarian political systems into more democratic ones. While the roles, functions and prescriptions of the World Bank differ in important respects from those of the International Monetary Fund, on the important issues discussed in this article the two institutions share similar views and, as such, while it is recognized that they do not constitute a monolith, they will be discussed together. The article examines the specific nature of Nigeria's contemporary dual transition, and, at the same time, relates this discussion to the character of earlier dual transitions. The focus of the analysis here is on two key economic reform policies that were implemented by the quasi-democratic Obasanjo regime (sharp fuel price hikes and the down-sizing of the public sector). Subsequently, the nature of the labour-led mass resistance to these economic reform policies (especially to the sharp fuel price hikes), as well as the character of the intensified state repression that was visited on the labour movement-led coalition that formed the vanguard of the popular resistance to these policies, are discussed. To conclude, the emergence of a new "full belly thesis" is suggested. The new thesis differs in specific content from, and has been in practice treated as far more benign than, the old thesis. The reasons for this, and the merit or otherwise of the newer thesis, are also discussed.

To be clear, it is important to note that while many interesting if more subsidiary issues (such as a more detailed analysis of the jurisprudence of the Nigerian courts on the right to strike) are of necessity implicated by the analysis presented in this article, the focus of the article is squarely on understanding the *human rights* (and therefore, socio-legal) contradictions of certain aspects of the conventional IMF/WB-style socio-economic reform paradigms as they were implemented in Nigeria between 1999–2005. For necessary parsimony, in order to maintain focus, and due to space constraints, fuller treatment of those more subsidiary issues will await another article. This is not to say, of course, that appropriate consideration was not given to these issues in the course of developing this article. Those issues are, in fact, discussed in the article to the extent that is necessary for the development of its thesis.

Finally, on a methodological note, the article falls within a long tradition of socio-legal scholarship; one that does not so narrowly construe the boundaries of law and legal inquiry as to reduce legal scholarship to purely (or even largely) doctrinal studies. It makes use of and situates legal doctrine and court decisions as appropriate, but *focuses* on broader meta-legal questions that both implicate and transcend such doctrines and case law. This of necessity reduces the amount of space that can be allotted within the article to the parsing of court decisions and basic legal doctrine.

## THE PLACE OF HUMAN RIGHTS IN DUAL TRANSITIONS

There is evidence that the kind of radical and painful economic reforms advocated by the International Monetary Fund (IMF) and, to some extent, the World Bank (WB), have been pursued equally by authoritarian regimes and more democratic governments,<sup>1</sup> but, as Paul Ocheje correctly notes, it is also true that “outside of [the established democracies of] Western Europe, radical market-oriented growth strategies have been pursued more often by authoritarian than democratic governments”.<sup>2</sup> This result is attributable in significant measure to the strong resistance that is often mounted against such painful reforms in the democracies and semi-democracies of the third world by poor majorities, labour movements, civil society groups, and other similarly affected segments of the population. As Nelson has put it, “austerity measures such as wage freezes or reduced food or fuel subsidies often catalyze mass protests”.<sup>3</sup> Historically, authoritarian governments have, therefore, been seen as more able to push through such reforms in the face of mass resistance.<sup>4</sup> Indeed, as Nelson noted in 1989, “conventional wisdom has long held that authoritarian governments are more likely than democracies to adopt and enforce unpopular economic stabilization and adjustment measures”.<sup>5</sup> Later work by Bangura and Gibbons confirms the dominant role that this conventional wisdom has played in the relevant political analysis of economic reform.<sup>6</sup> And although there is significant evidence that runs contrary to the conventional wisdom,<sup>7</sup> and the bulk of the literature finds no relationship one way or the other regarding whether authoritarian regimes are better at implementing harsh IMF/WB-style economic reforms,<sup>8</sup> the conventional wisdom has still not completely lost its allure. Even Nelson concluded

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1 See JM Nelson “The politics of long-haul economic reform” in JM Nelson et al *Fragile Coalitions: The Politics of Economic Adjustment* (1989, Overseas Development Council) 3 at 16.

2 See P Ocheje “Memo to symposium participants” Conference on “Human Rights and Development: The Challenge of Dual Transition” (2005) University of Windsor, Canada (on file with author) at 2. See also S Schlosstein *Asia's New Little Dragons: The Dynamic Emergence of Indonesia, Thailand and Malaysia* (1991, Contemporary Books).

3 See Nelson “The politics of long-haul economic reform”, above at note 1 at 7.

4 See J Toye “Interest group politics and the implementation of adjustment policies in Sub-Saharan Africa” in Y Bangura, P Gibbon and A Ofstad (eds) *Authoritarianism, Democracy and Adjustment: The Politics of Economic Reform in Africa* (1992, The Scandinavian Institute of African Studies) 106 at 106-26. See also Y Bangura and P Gibbon “Adjustment, authoritarianism and democracy in Sub-Saharan Africa: an introduction to some conceptual and empirical issues” in id 7 at 34.

5 See Nelson “The politics of long-haul economic reform”, above at note 1 at 15.

6 See Bangura and Gibbon, “Adjustment, authoritarianism and democracy”, above at note 4 at 13.

7 See Nelson “The politics of long-haul economic reform”, above at note 1 at 16.

8 See S Haggard and RR Kaufman *The Political Economy of Democratic Transitions* (1995, Princeton University Press) at 152 and 309-34.

that newer democracies tend to have more problems with implementing such reforms.<sup>9</sup>

It follows that a minimum level of authoritarianism or autocratic rule, however mild, is still seen by many key actors as necessary for the successful implementation of the kinds of harsh policies that are almost always “recommended” to third world states by the IMF and the WB. At the very least, certain democratic rights have been seen as amenable to curtailment in *certain contexts* in the interest of the successful implementation of these kinds of economic reform – reforms that have tended to inflict much pain on the poor majority of most of the countries that have come under IMF/WB tutelage over the last couple of decades. This is perhaps one important reason why, on the whole, the current civilian regime in Nigeria still enjoys a reasonably good reputation in the West and at the IMF/WB, even in the face of its visibly poor record of protecting labour and other such human rights.<sup>10</sup> This issue will be discussed in detail in the sections below, but the point that is made in those sections in relation to the period between 1999–2005 is captured in Bangura’s 1992 prediction that “it is apparent that economic reforms of the type formulated in most African countries [that is IMF/WB-style reforms] ... will be difficult to implement in a liberal democratic framework”.<sup>11</sup>

However, as Gibbons has shown, the deployment of authoritarianism (and the curtailment of rights that it entails) in order to push through harsh IMF/WB-style reforms only intensifies if civil society (made up of labour, human rights, professional groups, etc) is, in the first place, strong enough to provide the basis for resistance to the unpopular measures;<sup>12</sup> without a sufficiently strong civil society, the kind of intensified

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9 See Nelson “The politics of long-haul economic reform”, above at note 1 at 16.

10 This good international reputation is underscored by the current president’s treatment at the US White House in Washington, DC; by the West in general; and by the IMF/WB’s top hierarchy. For example, in August 2003, US president George W Bush praised Obasanjo as follows: “Listen, Nigeria is a very important country on the continent of Africa. And because of your forthrightness and your style and your commitment, you’re a very important leader on this continent. And I’m honored to be here with you” [emphasis added], available at: <<http://nigeria.usembassy.gov/www/haug03f.html>> (last accessed 2 October 2005). Human Rights Watch has also noted that: “Both Western donor countries and other African governments have been reluctant to criticize Nigeria’s human rights record publicly ever since President Obasanjo first came to power in 1999. Five years on, he has continued to enjoy wide international support”, available at: <<http://hrw.org/reports/2004/nigeria0604/4.htm>> (last accessed 2 October 2005). For his own part, the IMF’s resident representative in Nigeria, Gary G Moser, has recently lauded “President Obasanjo’s efforts to provide a brighter future for all Nigerians – indeed, for all Africans, given his role in NEPAD”. See GG Moser “The IMF and Nigeria, an enduring relationship” (on file with author) at 1.

11 See Y Bangura “Authoritarian rule and democracy in Africa: a theoretical discourse” in Y Bangura, P Gibbon and A Ofstad (eds) *Authoritarianism, Democracy and Adjustment: The Politics of Economic Reform in Africa* (1992, The Scandinavian Institute of African Studies) 39 at 79.

12 See P Gibbon “Structural adjustment and pressures toward multipartyism in Sub-Saharan Africa” in Y Bangura, P Gibbon and A Ofstad (eds) *Authoritarianism, Democracy*

authoritarianism or rights curtailment that often accompanies IMF/WB-style reforms is unlikely to be observed. This perhaps explains the strident efforts of the current civilian regime in Nigeria to curtail labour rights and to weaken the capacity of labour and its civil society allies to mass mobilize Nigerians in opposition to the implementation of the government's economic reform agenda. Nigerian civil society groups are widely acknowledged as among the most dynamic, creative and resilient in Africa.<sup>13</sup>

Significant human rights tensions have too often become manifest in the simultaneous or dual attempt to deepen democracy and institute painful IMF/WB-style economic reforms. If democracy is to offer certain human rights protections and empower the people to take control of their own political affairs, would they be likely to endorse the kinds of economic reform measures that their governments have agreed to implement under the tutelage of the IMF? And if they reject such measures (as has happened in Nigeria and many other countries), what is to be done? Should the reform measures be rammed through in spite of widespread popular and democratic opposition to their implementation? If authoritarian and semi-autocratic regimes have tended to be more successful at implementing such economic reforms against such popular resistance, to what extent should the transition to or broadening of democracy be limited for the presumed economic good of a country? If liberal democracies and quasi-democracies (outside the established ones in western Europe) have tended to be less successful or as unsuccessful at pushing through such painful reforms, to what extent should countries under reform sacrifice or limit important human rights in order to ensure the better implementation of these painful measures? Does this kind of authoritarianism really work in the long term? And what are the implications of the findings of this case study of the Nigerian experience between 1999 and 2005 for human rights and other theories?

I will return to these questions after an examination of the nature of Nigeria's economic and political reform agenda; an exposition and discussion of the character of the labour-led resistance to at least one key aspect of these reform measures; and an analysis of the government's targeted and intensified efforts to curtail labour rights and weaken the labour movement.

## THE NATURE OF NIGERIA'S DUAL TRANSITION

At least since 1985, Nigeria has been engaged, albeit in fits and starts, in a simultaneous (or dual) political and economic transition.<sup>14</sup> The political

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*and Adjustment: The Politics of Economic Reform in Africa* (1992, The Scandinavian Institute of African Studies) 127 at 166.

13 See TM Shaw "Africa in the New World Order: marginal and/or central?" in A Adedeji (ed) *Africa within the World* (1993, ACDESS, Ijebu Ode, Nigeria) at 91-92. See also OC Okafor *Legitimizing Human Rights NGOs: Lessons from Nigeria* (2006, Africa World Press).

14 See P Lewis "From prebendalism to predation: the political economy of decline in Nigeria" (1996) 34 *The Journal of Modern African Studies* 79 at 79-80.

component of this dual transition is aimed at not just ridding the polity of military rule but, more importantly, at resuscitating and deepening Nigeria's hitherto failed attempt at democratic governance.<sup>15</sup> During the 1979–1983 era, Nigeria practised a system of imperfect, but by and large democratic, civilian governance.<sup>16</sup> The economic dimension of this dual transition is directed at the “structural adjustment” of the Nigerian economy along the general lines typically recommended in the IMF/WB proposals for reform in third world countries.<sup>17</sup> To date, neither transition has been fully realized. This is so despite the military's much-heralded handover of power to the current Obasanjo-led civilian regime in 1999, and the virtually continuous prosecution of an IMF/WB-inspired and supported reform programme (albeit with differing degrees of intensity) since the mid-1980s.

The continued failure to achieve the aims of the political transition in Nigeria can be understood against the backdrop of the Babangida regime's insincere attempts at a return to civil rule; the subsequent capture of power by the notoriously dictatorial Abacha-regime; the continued negative effects of decades of military rule on the mind set of too many political leaders in Nigeria; and the authoritarian tendencies that have been ingrained in many of Nigeria's current political leaders and actors as a result. If Pini Jason is correct to describe the later years of the Babangida regime as “a bare-knuckle dictatorship”,<sup>18</sup> it is as valid to label the Abacha regime as the iron-fisted holder of “the all time record for human rights disrespect and atrocities” in Nigeria,<sup>19</sup> as well as to characterize the current civilian Obasanjo-led regime as, at best, both semi-democratic and semi-autocratic.<sup>20</sup>

If Nigeria's attempt at a transition to democracy is as yet inchoate, its current economic reform project, on which the rest of this section focuses, can only be described as fledgling. Despite its long pedigree in the structural adjustments of the 1980s and 1990s, this reform project has yet to make its mark in terms of concretely uplifting the living standards of Nigerians. Indeed, in reality, things may have actually worsened for Nigeria's poor majority.

15 See, generally, General Abdulsalami Abubakar's address to the nation on the eve of the hand-over of government and inauguration of the presidency of Olusegun Obasanjo, “Time to break cycle of instability and mistrust” (29 May 1999), available at: <<http://www.dawodu.com/abub.htm>> (last accessed 3 October 2005); and O Obasanjo “Independence day address to the nation” (1 October 2000), available at: <<http://www.dawodu.com/obas4.htm>> (last accessed 3 October 2005).

16 On the imperfections during the 1960–66 era, see PC Aka “Nigeria since May 1999: understanding the paradox of civil rule and human rights violations under president Olusegun Obasanjo” (2003) *San Diego International Law Journal* 209 at 221. On the incidence of intolerance of the opposition during the 1979–1983 era, see JO Ihonvbere “A critical evaluation of the failed 1990 coup in Nigeria” (1991) 29 *The Journal of Modern African Studies* 601 at 606.

17 Ihonvbere “A critical evaluation”, above at note 16 at 607.

18 Quoted in id at 620.

19 See Aka “Nigeria since May 1999”, above at note 16 at 223.

20 Id at 228–64.

The current reform agenda is intimately linked to earlier agendas that had been articulated and substantially executed by the Babangida regime, and to a lesser extent, the Abacha junta.<sup>21</sup> Within weeks of coming to power in a military coup in 1985, and aware of the economy's continuing downward spiral, Babangida opened a nationwide debate on the desirability of taking an IMF loan and subjecting Nigeria to IMF tutelage under a structural adjustment programme (SAP) agreement with that institution.<sup>22</sup> When it became clear that a broad based majority coalition of Nigerians had returned a negative verdict on whether Nigeria should come to terms with the IMF in the stated way, the Babangida regime performed the kind of deft (some say cunning and disingenuous) manoeuvre that the regime later became known for.<sup>23</sup> The junta publicly repudiated IMF financing<sup>24</sup> and announced a package of supposedly "home grown" measures financed by the World Bank.<sup>25</sup> Barely a year later, the regime locked in open embrace with the IMF when it introduced a formal SAP<sup>26</sup> which required Nigeria to remove 80 per cent of the supposed subsidy on petroleum products (translating to dramatically increased fuel prices), privatize government held corporations, retrench large numbers of its public service employees, and levy significant cuts on the salaries of those employees who did not lose their jobs.<sup>27</sup> The earlier "home grown" reform programme had contained virtually the same elements as this subsequent IMF/WB-dictated SAP. The Abacha regime (which was mostly composed of Babangida-era military officers and politicians) at various times either went along with or repudiated this IMF/WB-inspired and supported SAP. The Abubakar regime, which barely lasted twelve months, was too brief to make a difference one way or the other in this respect.

Not surprisingly, the key elements of Babangida's economic reform agenda, whether under the SAP or the earlier "home grown" package, have re-emerged under the current Obasanjo government's economic reform programme. Since 1999, with a very short break in 2002, the Obasanjo government has shown a commitment, in the face of sustained mass opposition, to dramatic and incessant fuel price hikes or, as it is often put, to the removal of "subsidies" on petroleum products. This commitment

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21 On the nature of these earlier reform projects in Nigeria, dubbed structural adjustment programmes (SAPs), see Lewis "From prebendalism", above at note 14 at 80 and 82-85.

22 *Id* at 82-83.

23 *Id* at 83.

24 *Ibid*.

25 See P Mosley "Policy-making without facts: a note on the assessment of structural adjustment policies in Nigeria, 1985-1990" (1992) 91 *African Affairs* 227 at 228-30; and JO Ihonvbere "Economic crisis, structural adjustment and social crisis in Nigeria" (1993) 21 *World Development* 141 at 143.

26 Mosley "Policy-making without facts", above at note 25, and Ihonvbere "Economic crisis", above at note 25.

27 See *id* at 143-44.



has been so solid that the IMF has recently felt able to endorse the government's economic reform programme as "commendable".<sup>28</sup> The government acknowledges this policy in its 2005 report to the World Trade Organization's Trade Policy Review Body.<sup>29</sup> It has also expressed its intention to retrench "up to 40% of the federal civil service" under its policy of "right-sizing", and has made concrete moves to attain this objective.<sup>30</sup> Although the government also intends to pursue the privatization programme begun under previous SAP arrangements, the rest of the paper focuses on the recent spate of fuel price increases and the retrenchment of government workers as two key elements of the current government's economic reform agenda. From the above discussion, the deep substantive connections between the SAP implemented earlier in Nigeria and the current economic reform agenda are quite clear.

The two historical phases of economic reform in Nigeria are also deeply connected to each other in another important way: the nature of the manoeuvres that the implementing regimes sought to make in their attempt to sell these reforms in the face of widespread discontent and resistance among the citizenry – resistance that was in each case harnessed and channelled into a formidable grassroots opposition movement by a labour-led civil society coalition. In both phases of reform, the relevant governments "introduced orthodox measures of reform under a nationalist guise".<sup>31</sup> This is easily illustrated. For example, speaking recently to a joint session of the National Assembly, Nigeria's bi-cameral parliament, president Obasanjo attempted to reinforce the government's position that Nigeria's National Economic Empowerment and Development Strategy (NEEDS) is a "home grown" economic reform agenda that is significantly different from the usual IMF/WB SAPs. In his own words:

"Let me state, once more, for those who say we did not get any relief or that the terms were ambiguous, the debt relief for Nigeria is REAL! In fact, such amount of write off by the Paris Club in terms of procedure and sequence is unprecedented for a country that is not in chaos or that is not being rewarded for offering strategic military support. And even then, the IMF would insist on its own supervised programme to be put in place, consisting of the usual stabilisation and structural adjustment programmes with implementation certified by the Fund before any debt relief deal could be contracted. This was waived in favour of a Policy Support

28 See also IMF "Nigeria: 2005 article IV consultation" IMF Country Report No 05/302, 25 March 2005, at para 58.

29 See "Trade policy report review: report by Nigeria" WT/TPR/G/147, 13 April 2005, at 12.

30 See *The Guardian* (21 December 2003), available at: <<http://www.dawodu.com/aluko75.htm>> (last accessed 26 September 2005).

31 See Lewis "From prebendalism", above at note 14 at 83.

Instrument (PSI) as the NEEDS programme was considered good enough to manage our efforts at repositioning our political economy for sustainable growth".<sup>32</sup>

The fact that the government seeks to make a distinction between earlier SAPs and NEEDS is clear from the above passage. That the IMF has participated in the attempt to sell NEEDS as significantly indigenous to Nigerian economic thought is evidenced by that organization's recent description of NEEDS as a "homegrown reform agenda".<sup>33</sup>

Yet even a cursory analysis of earlier SAPs in Nigeria and the key elements of the current NEEDS-driven reform programme shows that the measures introduced in both cases mirror the quintessential requirements of the kinds of IMF/WB SAPs that have been implemented around the world.<sup>34</sup> As noted above, fuel price increases (as deregulation of the downstream petroleum sector) and the retrenchment of public sector employees to cut costs were two key measures introduced by the Babangida regime under its IMF/WB-inspired and supported "home grown" and SAP reform programmes. Both measures continue to constitute key elements of the current government's NEEDS-driven approach to economic reform. A second reason for the conclusion that NEEDS is not as significantly "home grown" as is claimed is that, in terms of its philosophical orientation, NEEDS "could pass as a World Bank [or IMF] reform program".<sup>35</sup> Indeed, as Sam Amadi has noted, "a critical reading of the entire [NEEDS] document shows that it still keeps faith with the broad framework of neo-liberal market-oriented reform which [both] the World Bank and the International Monetary Fund strongly endorse".<sup>36</sup> Another such reason is the precipitate endorsement of NEEDS by the IMF and WB,<sup>37</sup> and their continued endorsement of the NEEDS-driven civil service retrenchment or "right-sizing" and fuel price increases.<sup>38</sup> For example, as has been noted, not that

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32 See O Obasanjo "Briefing to the National Assembly on the Report of the National Political Reform Conference and recent debt relief granted to Nigeria" (26th July 2005), available at: <<http://www.dawodu.com/obas42.htm>> (last accessed 3 October 2005).

33 See IMF "Semi-annual staff report under intensified surveillance: Nigeria, 2004" IMF Country Report No 05/37, February 2005, at 1.

34 For the nature of some of the SAPs implemented elsewhere, see S Kanga'ra "When the pendulum swings too far: structural adjustment programs in Kenya" (1998-99) *Third World Legal Studies* 109; and V Lloyd and R Weissman "Against the workers: how IMF and World Bank Policies undermine labour power and policies" (2001) 22/9 *Multinational Monitor*, available at: <<http://multinationalmonitor.org/mmm2001/01september/sep01corp1.html>> (last accessed 3 October 2005).

35 See S Amadi "Contextualizing NEEDS: political and economic development" in S Amadi and F Ogwo (eds) *Contextualizing NEEDS: Economic/Political Reform in Nigeria* (2004, HURILAWS and CPPR) at 13.

36 *Id* at 12.

37 *Id* at 19.

38 See IMF "Semi-annual report", above at note 33 at 2, 12, 9-10 and 22. See also IMF "Nigeria", above at note 28 at paras 1, 6, 13 and 58.

long ago, while recognizing some of the difficulties associated with it, the IMF still endorsed the current government's overall economic reform programme as "commendable".<sup>39</sup> It also described the retrenchment of 17,000 workers as "progress" in implementing Nigeria's economic reform agenda.<sup>40</sup> A weaker but still important reason for the fidelity of NEEDS to key tenets of earlier IMF/WB-inspired and supported reform measures (especially in the area of the so-called removal of fuel subsidies) is the intellectual connections and affiliations of most of the main authors of that document to either the World Bank, the IMF, and/or to the Harvard Business School that is seen by many as promoting IMF/WB-produced conventional wisdom.<sup>41</sup> For example, Dr Ngozi Okonjo-Iweala (the then minister of finance) most recently served as a vice-president of the World Bank; Professor Charles Soludo (one-time chief economic adviser to the president and now the governor of the Central Bank of Nigeria) has served at and for the WB; Mallam Nasir El-Rufai (the chair of the Presidential Reform Task Force on the Implementation of the Reforms, and minister in charge of the Federal Capital Territory) has taken courses at the Harvard Business School; and Ms Obiageli Ezekwesili (one-time senior assistant to the president, and now a serving minister and key member of the government's economic team) trained at the Harvard Business School. The government's economic management team works closely with and is aligned with the IMF in the relevant respects. Such intellectual affiliations and close (but clearly unequal) working relationships may explain in part why these key Nigerian actors have not departed from the so-called international consensus on the tenets of good socio-economic governance; a rather questionable consensus that is too often discussed as if certain alternative socio-economic paths are neither existent nor viable. In any case, the fuel price increases implemented in Nigeria have, for the most part, been forced on the current government by the IMF/WB.<sup>42</sup> What is more, the resident representative of the IMF in Nigeria has spoken of his organization's "close and cooperative relationship" with the current Obasanjo government, and has noted that the IMF and this government "share a common vision for Nigeria".<sup>43</sup>

As this article will show, given the similarity of the current reforms with earlier IMF/WB SAPs in Nigeria, and the suffering that these measures have

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39 See IMF "Nigeria", above at note 28 at para 58.

40 Id at para 6.

41 See Amadi, "Contextualizing NEEDS", above at note 35 at 18-19. It appears that similar processes via which ideas produced either in global institutions or in Western states, or in both, have percolated into "third world" states have also occurred with respect to key Latin American countries. See Y Dezalay and BG Garth *The Internationalization of Palace Wars* (2002, University of Chicago Press) especially at 28-31, 45-47, 143-53, and 168-80.

42 For example, see S Olukoya "Nigeria's gas crisis: suffering in the midst of plenty" (14 May 2001) *CorpWatch* (on file with author).

43 See Moser, "The IMF and Nigeria", above at note 10.

inflicted on Nigeria's poor majority,<sup>44</sup> the attempt to manoeuvre most Nigerians into accepting the SAP and the current reform programmes by portraying them as "home grown" failed. As such, this tactic did little to placate either Nigeria's poor majority or the labour-led civil society coalition that opposed the reforms, with the result that mass protests and civil disobedience continued to dog the efforts of either government to implement the said measures. This led in turn to the intensification of the Obasanjo government's authoritarian and undemocratic attempts to curtail labour rights and weaken the labour movement in Nigeria.

### LABOUR-LED MASS RESISTANCE AND INTENSIFIED STATE REPRESSION

As a result of their tendencies to neglect the interests of the poor majority in countries under reform and the harsh impoverishment that they often foster or augment, the implementation around the world of IMF/WB-inspired and supported SAPs (and such other economic reform programmes) has more often than not generated intense popular resistance to the key measures that constitute these reform projects (such as the removal of fuel and food subsidies, retrenchment of public sector workers, etc).<sup>45</sup> Faced with external pressures in the form of a pro-neo-liberal reform coalition made up of the IMF/WB, their mostly Western creditors and donor/rich states on the one hand, and internal pressures from widespread and often intense labour-led opposition to the reforms on the other, the response of many states under reform has often been to intensify both the curtailment of certain rights and the repression of the anti-reform opposition.<sup>46</sup>

This was certainly the case in Nigeria in the mid-1980s to the late 1990s, when successive military regimes, especially the Babangida junta, severely curtailed labour rights and, despite the Nigerian labour movement's

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44 For descriptions of the massive nature of this suffering, see Ihonvbere "Economic Crisis", above at note 25 at 141. Ihonvbere correctly notes (at 141) that under the Babangida and IMF/WB-imposed SAP, life became more difficult, if not impossible, for the poor majority. Unemployment and inflation rose to unprecedented proportions. Tensions between classes became heightened, and human rights violations and political tensions came to characterize relations between state and society. The then retired General Obasanjo was at the forefront of those who criticized the Babangida regime for enforcing a steep increase in fuel prices that caused massive human suffering in Nigeria between the mid-1980s and mid-1990s. See *Daily Independent* (26 November 2005), available at: <[http://www.nigerianmuse.com/important\\_documents/?u=Obasanjo\\_TELL\\_Interview\\_1993.htm](http://www.nigerianmuse.com/important_documents/?u=Obasanjo_TELL_Interview_1993.htm)> (last accessed 3 October 2005). See also M Ndulo "The democratization process and structural adjustment in Africa" (2003) 10 *Indiana Journal of Global Legal Studies* 315 at 363.

45 See Ihonvbere "Economic crisis", above at note 25 at 142.

46 See B Beckman "Empowerment or repression? The World Bank and the politics of adjustment" in Y Bangura, P Gibbon and A Ofstad (eds) *Authoritarianism, Democracy and Adjustment: The Politics of Economic Reform in Africa* (1992, The Scandinavian Institute of African Studies) 83 at 93.

gallant resistance, succeeded in weakening that movement's capacity to mobilize mass opposition to the SAP project of the time. Opposition to the Babangida regime's reforms *in part* led to coups in 1986 and 1990.<sup>47</sup> It also led to massive labour movement-led demonstrations and riots by workers, students, market women and the unemployed.<sup>48</sup> As Ihonvbere points out, the widespread opposition threatened the government's grip on power and its claim to legitimacy and forced it to abandon its human rights pretensions and become openly repressive.<sup>49</sup> The Academic Staff Union of Universities (ASUU) was proscribed and labour leaders belonging to the Nigerian Labour Congress (NLC), ASUU and other trades unions, were routinely harassed and detained.<sup>50</sup> Student union anti-SAP protests were harshly suppressed, university campuses were closed, anti-SAP gatherings were forcibly disbanded, and the harassment of the independent press intensified.<sup>51</sup> In 1988, when conservative and radical elements clashed within the NLC, the Babangida regime quickly seized what it saw as a golden opportunity to neutralize the labour-led opposition to the SAP and ousted the national officers of the NLC.<sup>52</sup> It then proceeded to appoint a sole administrator to oversee the NLC's affairs, and thereafter supervised an election that installed a union leadership, led by Pascal Bafyau, who Peter Lewis has charitably described as "more moderate".<sup>53</sup>

While it will be a serious mistake to simply equate the Obasanjo-led civilian government with the "bare-knuckle dictatorship" that characterized the later years of the Babangida regime and the entire tenure of the Abacha junta, the response of the Obasanjo government to the labour-led mass opposition to the implementation of key aspects of its economic reform agenda has not been so different. Given the Obasanjo government's incessant rhetoric in favour of political liberalization and its practice of a form of quasi-democracy, one might have expected to observe a largely democratic response to this labour-led opposition. Yet, while Obasanjo's response in this particular respect has been relatively mild compared with that of the Babangida and Abacha regimes, it has been quite harsh nevertheless, as illustrated by the current government's curtailment of labour rights and its attempts to weaken the labour movement in the face of labour-led mass resistance (through popular action, general strikes, press campaigns, and international appeals) to the fuel price hikes and retrenchment measures of 1999–2005.

Almost from the very beginning of its current tenure in office, and with the exception of a short period just before the 2003 elections, the Obasanjo government showed a determination (under much pressure from a

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47 See Ihonvbere "Economic crisis", above at note 25 at 144.

48 Ibid.

49 Ibid.

50 See Ihonvbere "A critical evaluation", above at note 16 at 610.

51 See Lewis "From prebendalism", above at note 14 at 88–89.

52 Id at 88.

53 Ibid.

troubled Nigerian economy, the IMF/WB and the rich creditor states and corporations) to raise fuel prices to "international levels" and retrench a huge chunk of Nigeria's public service work force. However, almost all of the general strikes and mass resistance that the government has faced have been as a result of the fuel price hikes that it has enforced in the face of the growing impoverishment of most Nigerians. As such, the illustration here of labour-led mass resistance and the government's curtailment of labour rights and repression of that oppositional campaign will focus on the fuel price question.

Between June 2000 and October 2004, the Obasanjo regime increased the price of fuel by roughly 184 per cent.<sup>54</sup> Subsequent hikes in late 2004 and in 2005 brought the margin of the total increase since the year 2000 to as high as 250 per cent by 26 August 2005.<sup>55</sup> By the credible account of Lagos state governor, Bola Tinubu, there were more than ten such fuel hikes between June 2000 and August 2005.<sup>56</sup> Yet, during this same period, incomes remained largely stagnant or even decreased in real terms for most ordinary Nigerians. Also according to Tinubu: "the level of poverty in the country today is...unacceptable ...There is nothing more heart-rending than hearing the teeming masses of our people cry daily that they are worse off economically and socially today than they were before the democratic restoration of 1999".<sup>57</sup>

While the Obasanjo government has on occasion partly rescinded or delayed portions of these price increases as a concession to the labour-led opposition coalition, it has in the end pressed on in the direction of such sharp increases. Every time the government has levied such increases, the labour-led coalition has tended to respond in a number of ways. First, it attempts to open dialogue with the government or persuade it to rescind the increases. It then lobbies the legislature, mounts targeted press campaigns, makes focused international appeals, and issues public warnings to the government. However, it has almost always resorted in the end to organizing general strikes and mass rallies in an attempt to force the government to meet its demands (however partially).

In response to the first increase of fuel prices announced in June 2000 by the Obasanjo government, the Nigerian Labour Congress (NLC) led one of the most crippling and effective general strikes since the end of military rule in Nigeria. Oil workers joined public sector and transportation workers

54 See "Report of the meeting held by the Senate Committee on Employment, Labour and Productivity with stakeholders on the recent increases in the pump prices of petroleum products and the threat of a nationwide strike by [the] NLC and civil society groups", available at: <<http://www.nlcng.org/october2004strike/senate%20committee%20reporton%20price%20hike.htm>> (last accessed 4 October 2005) at 3.

55 See *This Day* (4 September 2005), available at: <<http://www.allafrica.com/stories/2005/200509050448.html>> (last accessed 23 September 2005).

56 See *The Vanguard* (15 September 2005), available at: <<http://allafrica.com/stories/printable/200509150166.html>> (last accessed 19 September 2005).

57 Ibid.

in ensuring the success of the strike.<sup>58</sup> Nigeria's main seaport in Lagos and highways were blockaded.<sup>59</sup> International and domestic air flights were disrupted, and all fuel stations were closed.<sup>60</sup> Sporadic police and protester violence was reported across the country and two police stations in the federal capital territory, Abuja, were burned down by irate mobs.<sup>61</sup> The government was forced to back down from almost all of its announced fuel price increases (that is from N20 to N30 and then back to N22 per litre).<sup>62</sup>

In January 2002, following that month's increase in fuel prices, the NLC again mobilized Nigeria's poor majority and civil society groups by calling a general strike that resulted in the closure of markets, fuel stations and banks, effectively bringing the country to a standstill for at least a day.<sup>63</sup> The strike was inconclusive, however, as the NLC was forced to suspend the strike after the government obtained an injunction from an Abuja High Court declaring it illegal.<sup>64</sup>

The NLC and its allies put up stronger resistance in June 2003 to that month's fuel price increase.<sup>65</sup> After its calls for dialogue with the government were basically ignored by the executive branch (although deeply respected by the legislature and supported somewhat by some in the ruling party), the NLC launched and led another paralyzing strike from 30 June 2003 that eventually lasted eight days. In response, the government partially rescinded that fuel price increase.<sup>66</sup> However, true to its *modus operandi*, it later raised the prices back to their pre-strike levels.

In February 2004, the NLC called another such strike, but suspended it when a court, after an approach from the government, ordered both sides to maintain the *status quo* before the strike. This order meant that the government had to order fuel marketers to reverse their price increases.<sup>67</sup> The government publicly did so, but did precious little to enforce this directive.<sup>68</sup> It took a failed NLC-government dialogue and another three-day

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58 See J Woodroffe and M Ellis-Jones "World development movement report", available at: <<http://www.wdm.org.uk/campaigns/cambriefs/debt/unrest.pdf>> (last accessed 3 October 2005) at 11.

59 Ibid.

60 Ibid.

61 Ibid.

62 See: <<http://news.bbc.co.uk/1/hi/world/africa/782242.stm>> (last accessed 3 October 2005).

63 See: <<http://www.socialistalternative.org/literature/nigeria/ch6.html>> (last accessed 3 October 2005).

64 Ibid.

65 See NLC "Report on the Fuel Price Strike 2003", available at: <<http://www.nlcng.org/legislative/reportofthefuelstrike.htm>> (last accessed 3 October 2005) at 1 and 5.

66 Id at 5. See also: <[http://www.marxist.com/Africa/nig\\_strike\\_lessons0703.html](http://www.marxist.com/Africa/nig_strike_lessons0703.html)> (last accessed 3 October 2005).

67 See: <<http://www.afrol.com/articles/13333>> (last accessed 3 October 2005).

68 Ibid.

strike in June 2004 for the government to get the marketers to comply substantially with this court order.<sup>69</sup>

The NLC and its allies also called a four-day warning strike in October 2004, and another general strike in November 2004, in order to press the government to reverse yet another increase in the price of fuel.<sup>70</sup> The October strike brought much of the country to a standstill, but did not extract any significant concession from the government.<sup>71</sup> This was so despite the fact that the government had obtained a ruling from Justice Roseline Ukeje, the chief judge of the Federal High Court, holding that the NLC could not in effect organize strikes over fuel price increases (as this was, in her view, not a matter within the purview of collective bargaining for workers' conditions of service).<sup>72</sup> The court also held that the NLC in itself could not call a strike; only its constituent unions could.<sup>73</sup> The NLC did not hesitate to call another general strike in November of that same year. However, before the November strike could begin fully, the government averted it by first cutting the price of kerosene and later announcing a partial reversal of the price of (petrol) fuel.<sup>74</sup>

While the NLC has been forced to organize numerous general strikes and has won a number of concessions from the government as a result, it has recently changed its tactics, perhaps in tentative response to the court ruling discussed above. This change of tactic came to the fore in September 2005, when the NLC announced a sustained mass action campaign initially consisting of two weeks of peaceful demonstrations and rallies across Nigeria.<sup>75</sup> These rallies attracted a massive attendance.<sup>76</sup> In Lagos, for example, a mammoth crowd was mobilized that, at a point, stretched for nearly three kilometres.<sup>77</sup> The NLC president, Adams Oshiomole, the Catholic archbishop of Lagos, Olubunmi Okogie, the Nobel prize winner Wole Soyinka, and the governor of Lagos state, Bola Tinubu, all addressed this rally. A general strike in October 2005 was not ruled out.<sup>78</sup> These rallies were the first government sanctioned protests in Nigeria in forty years. Earlier protests had occurred in spite of the government's attempts to

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69 Ibid.

70 See *The Vanguard* (12 October 2004), available at: <<http://www.nlcng.org/october2004/strike/fromthepress/workersobeyNLC12102004.htm>> (last accessed 3 October 2005).

71 See: <<http://news.bbc.co.uk/1/hi/business/4013099.stm>> (last accessed 3 October 2005).

72 See *Federal Government of Nigeria and another v Oshiomole and Nigeria Labour Congress Suit No FHC/ABJ/CS/52/2004*, Abuja Division of the Federal High Court of Nigeria, 21 September 2004, per R Ukeje, CJ (on file with author) at 23-26. Herein after referred to as "the Ukeje Ruling".

73 Id at 30 and 32.

74 See: <<http://news.bbc.co.uk/1/hi/business/4013099.stm>> (last accessed 8 October 2005).

75 See: <<http://news.bbc.co.uk/1/hi/world/africa/4244556.stm>> (last accessed 3 October 2005).

76 Ibid.

77 Ibid.

78 Ibid.



repress them but, in this case, the police were explicitly ordered not to carry any weapons and not to disrupt the protest rallies.<sup>79</sup> However, this is not to say that no lives were lost during and as a result of this round of protests. Two civil society activists, the then CLO executive director, Chima Ubani, and the photo-journalist Tunji Oyeleru, both lost their lives in an accident while travelling to one such rally.<sup>80</sup>

Stung by the obvious popularity of the labour-led mass campaigns opposing its fuel price hike policy, the Obasanjo government has sought to defuse the negative effects on its popular legitimacy by attempting to limit, contain or stop entirely these general strikes. To this end, it has made use of public appeals, obtained court rulings, and unleashed – or at least largely tolerated – the harassment, assaults, detentions and killings perpetrated by the police on labour and allied activists/protesters. Specific examples of police brutality in response to labour-led anti-reform protests will serve to illustrate this point. In 1999, in anticipation of the June 2000 increase in the price of fuel, the NLC led over five thousand workers on a march on Aso Rock, the seat of Nigeria's presidency, to protest this action.<sup>81</sup> These unarmed protesters were brutally attacked and assaulted by armed police.<sup>82</sup> The June 2000 strikes were so widely supported, not just by the poor majority and the labour-led civil society coalition, but also by most in the National Assembly and among the political classes, that the government did not attempt to use as much police violence to repress it as it could have.<sup>83</sup> The January 2002 strike was, by contrast, brutally repressed by the police. Adams Oshiomole, the then NLC president, and ten other union activists were arrested and charged in court with “organizing an illegal strike”.<sup>84</sup> Approximately 20 and 16 NLC leaders were arrested and detained in Kaduna and Port Harcourt, respectively. The police repeated, and in fact intensified, this same pattern of brutality and repression during the June 2003 general strike. Nationwide, more than 16 people were killed by police officers and dozens more were brutally assaulted.<sup>85</sup> The February and June 2004 strikes were also met with incidents of police suppression.<sup>86</sup> Much of this suppression was justified on the basis that protesters needed the prior

79 Ibid.

80 See: <<http://odili.net/news/source/2005/sep/23/63.html>> (last accessed 23 September 2005).

81 See J Woodroffe and M Ellis-Jones “World development movement report”, available at: <<http://www.wdm.org.uk/campaigns/cambriefs/debt/unrest.pdf>> (last accessed 3 October 2005) at 11.

82 Ibid.

83 See: <<http://www.socialistalternative.org/literature/nigeria/ch6.html>> (last accessed 3 October 2005).

84 See: <<http://archives.cnn.com/2002/WORLD/africa/01/17/nigeria/>> (last accessed 3 October 2005).

85 See NLC “Report on the Fuel Price Strike 2003”, available at: <<http://www.nlcng.org/legislative/reportofthefuelstrike.htm>> (last accessed 3 October 2005) at 6.

86 See: <<http://www.edition.cnn.com/2004/WORLD/africa/06/09/nigeria.strike/>> (last accessed 23 September 2005).

permission of the police in order to demonstrate. The police also attempted to suppress the October 2004 strike in similar ways. For example, during this strike, armed police officers paraded the streets, the police forcibly prevented the NLC from staging a protest rally, 30 student protesters were wounded in Ibadan, 14 protesters were arrested in Kaduna, and nine labour leaders were arrested in Awka.<sup>87</sup> In November of that same year, the labour-led coalition called off their planned strike at the last minute when the government partially backed down on that round of increases in the price of fuel.<sup>88</sup> As such, the government's attempt to intimidate the labour-led coalition and frustrate this particular strike was more or less limited to rejecting the NLC's application for a police permit to hold protest processions (the Nigerian Police Force is controlled in every sense of that word by the Federal Government).<sup>89</sup> However, as has been noted earlier in this section, the government's response to the September 2005 anti-fuel price hike protest rallies was far more civil than its previous responses to anti-reform protests.

Perhaps the government has finally *begun* a process of coming to terms with the democratic rights of Nigeria's poor majority and the labour-led civil society coalition that mass mobilizes them in resistance against the government's IMF/WB inspired and supported reform agenda. Or perhaps the government's new found tolerance of labour rallies, if such a thing can even be said to exist at this point, is linked to the fact that strikes, more than rallies, are far more threatening to its political and economic power. Alternatively, it may be connected to the fact that the government has now secured a court order that ostensibly outlaws the NLC's ability to call strikes in its own right,<sup>90</sup> and has also pushed through legislation that seeks to weaken significantly the labour-led coalition's capacity to force the government to rescind its highly unpopular reform measures, such as fuel price increases, by paralyzing economic and social activities in the country.<sup>91</sup>

This new legislation amends the Trade Unions Act of Nigeria and other allied legislation.<sup>92</sup> In effect, it limits the scope of the subject-matter or issues over which labour unions and the NLC (or some other "central labour organization") can call a strike; bars strikes in so-called essential services; sets stringent preconditions for strikes; allows for the creation of other central labour organizations apart from the NLC; and bars the picketing of airports or public highways to obstruct air or motor vehicular

87 See *The Vanguard* (12 October 2004), above at note 70.

88 See: <<http://www.afrol.com/articles/14814>> (last accessed 21 June 2006).

89 See: <<http://www.globalpolicy.org/soecon/inequal/labour/1018survey.pdf>> (last accessed 21 June 2006).

90 See the Ukeje Ruling, above at note 72.

91 See the Trade Union (Amendment) Act 2005, available at: <[http://www.nigeria-law.org/TradeUnion\(Amendment\)Act2005.htm](http://www.nigeria-law.org/TradeUnion(Amendment)Act2005.htm)> (last accessed 23 September 2005).

92 See the Trade Unions Act, Cap 437, Laws of the Federation of Nigeria, 1990; Decree No 4 of 1996; and Decree No 26 of 1996.

traffic. While the last two measures are open to debate as to their appropriateness in the Nigerian context, the other measures are almost certainly undemocratic; are a violation of labour/political rights to freedom of association, to freedom of expression, and to call strikes; and are in general anti-labour. For example, under the new act, unions can only declare a strike if it concerns a “dispute of right” (that is, one arising directly from a collective agreement).<sup>93</sup> As such, strikes against fuel price hikes are presumably now outlawed under the new act. There is no good legal or moral reason why the members of a labour union should not have the same right as other citizens to protest collectively any government policy that significantly affects them. Also health, education and other “essential workers” (as defined under the Trade Disputes Act<sup>94</sup>) are essentially barred from ever declaring a strike.<sup>95</sup> Again, no union can declare a strike unless a simple majority of *all* union members vote in favour (not simply a majority of those who are present and voting).<sup>96</sup>

As anti-labour as the final legislation may seem, the original bill submitted to the National Assembly by the Obasanjo government,<sup>97</sup> on which the final law is based, had proposed to ban or frustrate strikes altogether by providing that employers who deduct union dues from the wages of its unionized workers should only remit that sum to the relevant union if that union had agreed to a so-called “no strike” clause in its collective agreement with the employer.<sup>98</sup> This government bill also provided that a two-thirds majority of union members must vote in favour of a strike before a union could declare a strike.<sup>99</sup> The bill would also have mandated the Registrar of Trade Unions to “remove from the register the Nigeria Labour Congress as the only Central Labour Organization in Nigeria”.<sup>100</sup>

However, under great pressure from the labour-led coalition and the Nigerian public, the National Assembly watered down significantly the bill’s harsh proposals. The National Assembly made three major and highly consequential amendments to the original bill: to expunge from it the proposal to ban strikes; to reduce the number of votes required for a union to declare a strike from a two-thirds to a simple majority; and to expunge the mandate imposed on the Registrar of Trade Unions to de-register the NLC as the only central labour organization in Nigeria (so that the NLC does not now have to re-apply to be registered as a central labour organization).

93 See the Trade Union (Amendment) Act, above at note 91 at sec 6.

94 See the First Schedule of the Trade Disputes Act, Cap 432, Laws of the Federation 1990.

95 See the Trade Union (Amendment) Act, above at note 91 at sec 6.

96 Ibid.

97 See *A Bill for an Act to Amend the Trade Unions Act as Amended and for Matters Connected Therewith* (on file with author).

98 Id at sec 3.

99 Id at sec 5.

100 Id at sec 6.

Yet, despite the government's seemingly lofty claims that the new act was intended to "entrench sanity and decent behaviour in the *manner* in which strikes are conducted" and that it "only seeks to create a labour friendly environment" in line with International Labour Standards,<sup>101</sup> it is clear from a combination of the original proposals made to the National Assembly by the Executive branch, the actual content of the new act, and the nature of the labour movement's historical engagement with the government, that the measures introduced were designed to curtail labour rights and weaken the labour-led coalition that forms the main opposition to aspects of the economic reform project of the Obasanjo government. How, one might ask, is an outright ban on strikes or the imposition of stringent pre-conditions for strikes an attempt to regulate the *manner* in which strikes are conducted or to create a labour-friendly environment?

Overall it must be noted that the pattern of repression and curtailment of rights that is noticeable from the above account of the government's responses to labour's widely popular struggle against its fuel price increases fits seamlessly into a broader picture of semi-autocratic rule and poor human rights performance under the current Obasanjo regime. Although much euphoria marked the end of military rule and heralded Obasanjo's inauguration as Nigeria's president in 1999, hopes for improved human rights under his leadership have yet to be realized.<sup>102</sup> This conclusion is supported by the report issued by Human Rights Watch (HRW) on the state of human rights in Nigeria in 2005.<sup>103</sup> Although the US and other Western governments continue to deal with the Obasanjo regime as a key friend and ally and/or as if it were a more human rights-friendly regime, the negative impression conveyed in this HRW report is also supported by every human rights report issued by the Labor and Human Rights Section of the US Department of State since at least 2001.<sup>104</sup> From a seriously flawed election in 2003, to the massacres perpetrated in the Niger Delta and the Benue regions by the army, this regime's overall human rights record has "remained poor".<sup>105</sup>

Given the fact that the elected quasi-democratic Obasanjo regime has exhibited a broad semi-autocratic bent, it becomes apparent that the labour-led popular struggle against its reform project did not simply *create*

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101 See: <<http://www.thisdayonline.com/nview.php?id=13450>> (last accessed 5 October 2005).

102 See Aka "Nigeria since May 1999", above at note 16 at 211.

103 See: <<http://www.hrw.org/reports/2005/nigeria0705/1.htm>> (last accessed 26 September 2005).

104 See US Department of State "Country reports on human rights practices-2004: Nigeria", available at: <<http://www.state.gov/g/drl/rls/hrrpt/2004/41620.htm>> (last accessed 26 September 2005); id "2003 Report", available at: <<http://www.state.gov/g/drl/rls/hrrpt/2003/27743.htm>> (last accessed 26 September 2005); id "2002 Report", available at: <<http://www.state.gov/g/drl/rls/hrrpt/2002/18220.htm>> (last accessed 26 September 2005); id "2001 Report", available at: <<http://www.state.gov/g/drl/rls/hrrpt/2001/af/8397.htm>> (last accessed 26 September 2005).

105 See id "2004 Report" at 1.

autocratic instincts or behaviour within this regime. However, this labour-led resistance movement led to the *intensification* of particular forms of government repression targeted at those who launched the street protests and general strikes that demonstrated the scale of the opposition to the highly unpopular aspects of its reform programme. It is, therefore, only logical to conclude that, worried about the power that labour wielded in Nigeria and intent on prosecuting its IMF/WB-backed reforms, the Obasanjo regime singled out labour rights for curtailment and attempted to weaken the labour movement.

However, neither the unfavourable general human rights climate under the Obasanjo regime nor that government's targeted attempts to curtail labour rights and weaken the labour movement has succeeded so far in cowing, de-mobilizing, or suppressing the labour-led coalition's resistance to the government's unpopular fuel price hikes. Given the long history of labour-led resistance against far more dictatorial regimes,<sup>106</sup> the suppression of labour organizations by Obasanjo's semi-autocratic elected government was, in any case, a highly unlikely outcome. Prior to September 2005, the labour-led coalition had succeeded in winning a number of concessions from the government, especially in terms of significantly delaying or reversing fuel price increases. This trend is likely to continue because, despite the labour-led coalition's preference for rallies (as opposed to general strikes) as its initial response to the August/September 2005 fuel price hikes, it should be noted that the coalition has not ruled out resort to one or more general strikes should the government fail to reverse the latest round of hikes. Clearly, therefore, the coalition is prepared to engage in, on the face of it, illegal strike actions, presumably as a form of civil disobedience. What is more, President Obasanjo's attempt in his 1 October 2005 Independence Day speech to placate the labour organizations is clear evidence of their continued capacity to exert significant pressure on the government.<sup>107</sup> In that speech, Obasanjo announced that there would be no further fuel price hikes until the end of 2006 whatever the cost of crude oil or imported fuel in the international market. In his own words:

"It is relevant and important to note that there is still a substantial level of subsidy in the petroleum products supplied to the domestic market today in spite of the recent price adjustments. However, what is important at this point in time is to ensure that continued rising price in the international market of crude oil does not continue to translate to further price increases of products at the pump. For this reason Government has directed PPPRA, NNPC and other stakeholders to work out the Modulator Mechanism that

106 See Ihonvbere "A critical evaluation", above at note 16 at 608.

107 See O Obasanjo "2005 Independence Day speech", available at: <[http://www.nigerianmuse.com/important\\_documents/?u=Obasanjo\\_independencespeech\\_October\\_1\\_2005.htm](http://www.nigerianmuse.com/important_documents/?u=Obasanjo_independencespeech_October_1_2005.htm)> (last accessed 5 October 2005).

will maintain and sustain current pump price level until the end of 2006 no matter what happens in the international oil market".<sup>108</sup>

This is a very significant concession given that, despite Nigeria's status as one of the world's largest oil-producing countries, much of the refined fuel consumed in Nigeria is now imported. Thus, in effect, Obasanjo was announcing, as a concession to the labour-led coalition, a huge subsidy on the cost of imported fuel. This is a policy that conflicts squarely with his government's long-term policy of petroleum sector deregulation and the complete removal of the subsidy on fuel. As has been shown above, the removal of this subsidy is a key component of the government's IMF/WB supervised economic reform programme. As importantly, in the same speech, Obasanjo promised that, "through on-going discussions with Labour, Government will work out some *adjustments in allowances* to cushion the effect of increased fuel price".<sup>109</sup> This is further evidence of the kind of influence that the labour-led coalition still exerts on the government in Nigeria. It also shows that, as autocratic as it has been and as poor as its human rights record has been, the Obasanjo regime is still far from an outright dictatorship.

Still, it is important to note that, as well-documented as the Obasanjo government's poor human rights record is, the regime has so far remained near-immune from the kind of criticism and ostracism that has been meted out to some other third world leaders whose behaviour has not been all that different. Having conducted and won an election in 2003 that has been described by the US State Department as "fraudulent", and having been identified as responsible for extensive and recurrent abuses of human rights (including labour rights), the politically naïve observer might have expected that the Obasanjo government would have by now faced some meaningful international criticism (and perhaps even mild sanctions). Yet, for the most part, such criticisms and sanctions have so far not been forthcoming.

Why, then, has this particular regime seemingly received a virtual international pass for its significantly poor human rights record? One of the many reasons that can be identified is that the Obasanjo regime has on the whole been a strategic and key economic and political partner of the key Western interests involved: the IMF/WB, and the US/British governments. A dimension of this specific reason may be the fact that Obasanjo has faithfully implemented the key aspects of the market liberalization-based economic reform agenda favoured by the IMF/WB and these key Western governments. Such reforms have benefited, or are likely to benefit, some key Western oil corporations, bankers and investors. While certain Western interests, such as their own labour unions, may not benefit significantly from, and may even oppose, the implementation of these IMF/WB-style policies in third world countries like Nigeria, many other Western

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<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

actors (for example, certain oil corporations and their investors and bankers) often profit and benefit tremendously (be it directly or indirectly) from the access to local markets, sale of local refineries and increases in the prices of fuel sold locally by the oil marketing multinationals. For instance, by refusing for the last several years to build refineries in the country (and thereby alleviate Nigeria's very serious refined motor fuel scarcity problem) and by their reluctance to buy over and manage the existing government-run plants, ExxonMobil, Chevron, Shell, Elf, AGIP and Texaco have helped put great pressure of the Obasanjo regime to raise fuel prices drastically.<sup>110</sup> Clearly, aside from their other "justifications", the sharp increases in the price of fuel during the period under study not only serve to benefit these oil corporations in their traditional role as distributors and marketers of refined fuel within Nigeria, but will also make it *more* profitable for them to invest in and operate refineries in the country. As such, it could be said, adapting Rhoda Howard's now famous phrase, that the need for more and more "full bellies" in the West has in part led to a willingness among many Western governments and the IMF/WB to overlook the poor human rights record of regimes that seem to be dedicated to pursuing policies that further the objective of providing markets and profits for rich-country actors to a significant extent.

## THE NEW "FULL BELLY THESIS" AND THE SUBSTITUTION OF IDEOLOGY

It seems that both the curtailment of labour rights in order to weaken the power of the labour organizations in Nigeria, and the virtual silence of key Western governments regarding these types of human rights violations, are largely grounded in deliberate or more unconscious adherence to a kind of "full belly thesis".<sup>111</sup> As Howard understands it, the full belly thesis asserts that the struggle to implement the economic and social rights of a mostly poor population should take priority over or trump the full enjoyment of certain civil and political rights.<sup>112</sup> In the case of the implementation of IMF/WB-style economic reforms by the Obasanjo government, and the labour rights' curtailments and violations that the implementation of this agenda has entailed, the government's implied full belly thesis is that the exercise of certain labour rights (such as the right to call general strikes) and the considerable socio-political power exercised by the labour movement in Nigeria pose serious obstacles to the implementation of a reform agenda that the government seems to believe will uplift the economy and ensure the enjoyment of economic and social rights by most Nigerians, and should as such be curtailed, perhaps on a temporary basis.

110 See: <<http://www.afrol.com/articles/10668>> (last accessed 21 June 2006).

111 See R Howard "The Full Belly Thesis: should economic rights take priority over civil and political rights? Evidence from Sub-Saharan Africa" (1983) 5 *Human Rights Quarterly* 467.

112 *Id* at 468.

Similarly, the implied full belly thesis of the IMF/WB and the key Western governments is that these labour rights can be sacrificed, perhaps on a temporary basis, in the broader economic interest of both the Nigerian people and the world economy (which is controlled in large measure by Western governments, corporations and peoples). Both arguments accord priority to the struggle for certain broad economic rights over the enjoyment of certain labour rights. Each of them is, therefore, a kind of full belly thesis.

The fact that deliberate or more unconscious adherence to a full belly thesis provides the grounds for the Obasanjo government's curtailment of labour rights and its attempts to weaken the power of labour in Nigeria, and the fact that Western criticism of these measures has been basically muted, confirms the anxieties that have long been expressed regarding the human rights tensions that are often made manifest when third world countries undertake IMF/WB-style economic adjustment alongside their transitions to democratic rule.<sup>113</sup> It also reflects the mostly inappropriate ways in which the relevant governments and the IMF/WB seek to resolve such human rights tensions. To these key actors, the fuller exercise of labour and certain other rights has too often been viewed as an obstacle to free trade, liberalized third world domestic markets, and profits. For example, the IMF has described the Nigerian economy as "vulnerable to social and political risks visible in the recent labour strikes".<sup>114</sup> The enjoyment of the right to strike in Nigeria (and some other pre-existing key labour rights) is thus monolithically constructed as a vulnerability, a risk, and a weak link in the struggle for economic development, and something that Nigeria needs to overcome if it is to make any progress on that front and therefore secure the economic and social rights of its citizens. In the face of the Obasanjo government's obvious failure to persuade most Nigerians and the labour-led coalition of the soundness of its fuel price hike policy, the curtailment of labour (and other human) rights and the diminishing of the labour-led coalition's capacity to exert pressure on the government to rescind these policies was, quite unfortunately, seen by the government and some international actors as the path to economic progress.

It is, of course, true that the transition to democracy in Nigeria and elsewhere cannot succeed unless the relevant economic conditions improve and there is greater enjoyment of economic and social rights among the relevant general population.<sup>115</sup> Yet, as is now known from the UN's position on the "interdependence and indivisibility" of all categories of human

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113 See Nelson "The politics of long-haul economic reform", above at note 1 at 15.

114 See IMF "Semi-annual report", above at note 33 at 14.

115 See M Ndulo "The democratization process and structural adjustment in Africa" (2003) 10 *Indiana Journal of Global Legal Studies* 315 at 367. See also SC Agbakwa "Reclaiming humanity: economic, social, and cultural rights as the cornerstone of African human rights" (2002) 5 *Yale Human Rights and Development Law Journal* 177 at 183.



rights (be they economic/social or civil/political),<sup>116</sup> the enjoyment of basic civil/political rights (such as the labour rights that now stand curtailed in terms of the texts of Nigerian law) is necessary for sustainable and equitable economic development (as opposed to mere economic growth) to occur.<sup>117</sup> If, as the World Bank has recently shown, “within-country” and “global” inequities are key obstacles to economic development in third world states, then the equitable distribution of resources among a country’s population is also necessary for such development to occur.<sup>118</sup> Real and meaningful popular participation, enabled by the exercise of basic civil/political rights, in the shaping of economic reform agendas is key to ensuring that economic policies lead to an equitable distribution among the population of the available resources of that country. As is often the case, the economic policies that are appropriate to a particular society cannot be properly identified and implemented by relying *solely* on the technocratic wisdom of either the IMF/WB, the government in question, or both.

In the Nigerian case, the sustained exercise by the labour-led coalition of its right to call general strikes and mobilize the general population in street demonstrations and other forms of protest, has been key to ensuring that the government has been forced to respond, albeit grudgingly and in trickles, to some of the more distributional needs of Nigeria’s vast economic underclass. As shown above, in response to the massive exercise of the protest rights of the labour organizations, the government has on occasion reversed its fuel price increases, announced moratoria on price increases, and/or increased public sector salaries and allowances. While these measures are at best insufficient to alleviate the poverty of Nigeria’s poor majority and bring their standards of living closer to those enjoyed by a tiny minority of rich Nigerians, given the evidence considered in this paper, even these inadequate measures would likely not have been announced and implemented without the labour-led struggle that forced the government’s hand. And the labour organizations would not have been able to lead such a struggle so effectively without being able to exercise the very labour rights that the government has so stridently sought to curtail.

Thus, the argument that labour rights should be curtailed and the labour movement weakened in order to facilitate the reforms that are intended to usher in a golden age of economic development in Nigeria are largely misguided. The implied full belly thesis that has grounded the reactions of both the Obasanjo government and key Western actors to the labour-led campaign against the implementation of key aspects of these reforms is just as misguided.

This specific kind of full belly thesis is hardly distinguishable from the old-style full belly thesis identified by Howard in 1983.<sup>119</sup> The old full belly

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116 See Vienna Declaration and Program of Action, 25 June 1993, 32 ILM 1661.

117 See Howard “The Full Belly Thesis”, above at note 111 at 470.

118 See The World Bank *Equity and Development* (2005, The World Bank) at 4 (of overview) and 206 (of the main report).

119 Howard “The Full Belly Thesis”, above at note 111.

thesis that was proposed in the past by many third world governments posited that some human rights ought to be sacrificed (to some extent) in favour of the broad economic development of the country in question which was to be achieved through the pursuit of import substitution-based economic policies. These policies tended to impose barriers on the import into these third world countries of foreign (especially Western) manufactured goods. The version of this thesis that we are confronted with today, what I will henceforth refer to as “the new full belly thesis”, contends that the relevant third world governments should be able to sacrifice certain human rights (to some extent) so as to facilitate the implementation of the IMF/WB-driven market liberalization-based economic development policies of these regimes. These IMF/WB-driven economic policies tend, *inter alia*, to dictate the opening of the markets of these countries to goods manufactured abroad (especially in the West).

In the first type of full belly thesis, the curtailment of human rights served an economic policy agenda that imposed obstacles to mostly Western foreign product/capital imports into the relevant third world countries, and did therefore depress economic growth/profits in the mostly Western capital/product exporting countries. In the second kind of full belly thesis, the curtailment of human rights is intended to serve an economic policy agenda that favours mostly Western foreign product/capital imports into the relevant third world states, and is therefore intended to boost economic growth/profits in these mostly Western foreign countries.

Yet, the new full belly thesis has, in effect, been better received than the first kind of full belly thesis – at least in relation to their deployments at various times in the Nigerian context. African states that proposed the old fully belly thesis in the 1970s and 1980s were almost always condemned as, at best, misguided.<sup>120</sup> Yet, in relation to its current deployment of the new full belly thesis, no key Western country has subjected Nigeria to the kinds of scathing criticism that have been meted out to some other countries that similarly violate human rights. This is not to argue that Nigeria has not been criticized at all for human rights violations, but to suggest that such criticism has not matched its rather disappointing record, especially in the labour rights area. Indeed, as seen above, the Obasanjo regime is frequently portrayed as a good economic and political partner of the West.

What is apparent from this consideration of the evidence is that international condemnation for proposing or practising the full belly thesis seems to depend on the ideology that grounds the particular full belly thesis that is put forward by the relevant government. If that ideology matches IMF/WB economic policies and favours Western economic growth/profits, the country is likely to receive more of a pass on its record of labour rights violations than if that ideology is not in tune with IMF/WB policies and does not favour Western economic growth/policies as much. As such,

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120 Ibid.

the *substitution* of one such ideology for the other can lead to more or less favourable verdicts on a third world country's handling of the human (especially labour) rights tensions that arise from an attempt to undertake a dual political and economic transition. Thus, as the evidence shows, there does not seem to be any commitment to the protection of interdependent and indivisible human rights that can be abstracted from the broader political economy or ideological context in which that commitment is formed or expressed.

Thus, a seamlessly and optimally *dual* transition of the kind now being undertaken in Nigeria and other similarly situated states is very difficult to achieve given the specific content of the economic reform agenda that the IMF/WB have persuaded or coerced these countries to adopt and implement, and the massive opposition that is often generated by attempts to implement these policies. As the Nigerian case has shown, certain civil/political rights, especially those that facilitate the exercise of power by the labour-led coalitions that have mounted a sustained opposition to these policies and by the poor majority in the country, are far-too-often sacrificed or curtailed in the drive to implement these economic reforms. Yet, without the substantial guarantee of the practical enjoyment of these human rights, the democratic credentials of a country will remain suspect in the eyes of most human rights scholars and activists, even if not in the eyes of the IMF/WB or key Western regimes. Such third world governments will be more properly seen as, at best, quasi-democratic regimes. Thus, no matter how much a government's economic reform agenda succeeds in fostering one form or the other of economic development, there can be no successful *dual* transition without the political transition succeeding. In any case, equitable economic development is almost impossible in the absence of the meaningful enjoyment of the kinds of political rights that the Nigerian labour movement has claimed and that the Nigerian government has stridently sought to curtail.

To be clear though, the point that has been made in this section is not that the old full belly thesis was correct when it was proposed. Any full belly thesis whatsoever must be subjected to rigorous and sceptical examination. It may well be (although it is not necessarily conceded) that certain not so basic civil/political rights can in some cases be balanced away by a proven and overwhelming national economic emergency. However, this case study of the Nigerian context shows that the particular full belly thesis that is asserted by the Obasanjo regime and its foreign economic allies and backers is not justified by a rigorous assessment of the evidence. How can the government's strident attempts to curtail labour rights so as to weaken the labour movement's capacity to lead the popular resistance to aspects of its economic reforms justify the intimidation, harassment, arrests, detentions, and even killings, of some protesters and labour leaders? How can this end possibly justify its (failed) attempt to ban all strikes by the NLC? And how (in a supposed democracy) can its economic development ambitions possibly justify its relatively successful move to impose stringent pre-conditions for

strikes and divide the labour movement? These are policies that are mostly associated with authoritarian (and not democratic) regimes.

## CONCLUSION

This paper has utilized a Nigerian case study to show how the curtailment of labour rights and the weakening of the labour movement has formed an important part of the economic strategy of many of the third world governments that are, for one reason or the other, intent on prosecuting an IMF/WB and Western government-backed package of economic reforms. The paper also shows that this curtailment of labour rights and the attempts to weaken the labour-led coalition that has formed the vanguard of the mass resistance to such policies in Nigeria (and in many other third world states)<sup>121</sup> were an attempt to deal in some way with the human rights contradictions that are often generated when third world countries attempt dual political and economic transitions. In this vein, the paper maps and demonstrates the intensification and augmentation of repression that have occurred as a result in a country like Nigeria. The paper argues that the repression of labour rights and the weakening of labour power in the service of the IMF/WB-style economic reform agenda of ruling regimes in Nigeria and other such transitional third world countries marks the emergence of a new kind of “full belly thesis” that inappropriately prioritizes economic development over certain kind of political rights; one that has nevertheless been welcomed by the more powerful (mostly Western) states that otherwise advocate the observance of human rights than earlier iterations of this type of thesis. I also contend that this discrepancy in the treatment of the older and newer kinds of full belly thesis is explained, at least in part, by the substitution of ideology that has occurred in the meantime. While the older full belly thesis was intended to serve the ends of a largely import-substituting self-reliance-based economic ideology in the third world that obstructed foreign (especially Western) imports, the newer full belly thesis is decidedly the servant of a neo-liberal market liberalization-based ideology that is seen as favourable to foreign (especially Western) economic penetration in the third world. This repressive approach to managing popular resistance to aspects of the IMF/WB-style economic reforms in Nigeria (and other such countries) is, at best, misguided.

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121 For example, the Congress of South African Trade Unions (COSATU) was, and remains, central to the mobilization of popular resistance to political and economic policies that disadvantage the poor majority in South Africa. See: <<http://www.cosatu.org.za>> (last accessed 21 June 2006). In Brazil, current president Lula da Silva's independent labour union and even his governing labour-aligned worker's party has always played a similar role. See: <[http://www.americas.org/item\\_27](http://www.americas.org/item_27)> (last accessed 21 June 2006).